

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

MICHAEL JOHNSON, #02345931 §
VS. § CIVIL CASE NO. 4:22-CV-1043-SDJ
DIRECTOR, TDCJ-CID §

ORDER OF DISMISSAL

The above-entitled and numbered civil action was referred to United States Magistrate Judge Aileen Goldman Durrett, who issued a Report and Recommendation (“the Report”) concluding that the petition for writ of habeas corpus should be dismissed with prejudice as time-barred. Petitioner filed objections. (Dkt. #21).

In the objections, Petitioner states that the law library was closed on May 19, 2021, when he arrived at a TDCJ facility, and again in October 2021. (Dkt. #21, p. 1). He also alleges that, on May 19, 2021, “all law offices closed or [were] going out of business.” (Dkt. #21, p. 1). Although Petitioner provides specific dates when the prison law library and private law offices were allegedly closed during the COVID-19 pandemic, he does not allege facts establishing that these closures actually prevented him from timely filing his federal habeas petition. As the Magistrate Judge noted in the Report, courts have found that intermittent lockdowns and diminished access to the law library, even as a result of COVID-19 restrictions, do not constitute “extraordinary circumstances” warranting equitable tolling. In the objections, Petitioner also offers no evidence or explanation to demonstrate his “reasonable

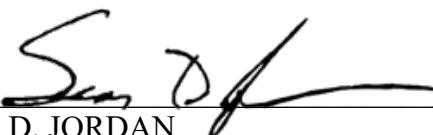
diligence" in pursuing his rights during the limitations period. The Court has reviewed the tendered objections, and they generally add nothing new to Petitioner's prior contentions in this case. Despite his arguments, Petitioner fails to show that the Report is in error or that he is entitled to relief.

The Report of the Magistrate Judge, which contains proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration. Having made a *de novo* review of the objections raised by Petitioner to the Report, the Court concludes that the findings and conclusions of the Magistrate Judge are correct. Therefore, the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court.

It is accordingly **ORDERED** that the petition for a writ of habeas corpus is **DISMISSED** with prejudice as time-barred. A certificate of appealability is **DENIED**.

It is further **ORDERED** that all motions not previously ruled on are hereby **DENIED**.

So ORDERED and SIGNED this 23rd day of September, 2024.



SEAN D. JORDAN
UNITED STATES DISTRICT JUDGE